

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - -X	:	
UNITED STATES OF AMERICA,	:	08-CR-0823(NGG)
	:	
-against-	:	United States Courthouse
	:	Brooklyn, New York
	:	
BRYANT NEAL VINUS,	:	Thursday, May 11, 2017
	:	2:00 p.m.
Defendant.	:	
	:	
- - - - -X	:	

TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING  
BEFORE THE HONORABLE NICHOLAS G. GARAUFIS  
UNITED STATES SENIOR DISTRICT JUDGE

A P P E A R A N C E S:

For the Government: BRIDGET M. ROHDE, ESQ.  
United States Attorney  
Eastern District of New York  
Cadman Plaza East  
Brooklyn, New York 11201  
BY: RICHARD TUCKER, ESQ.  
DAVID KESSLER, ESQ.  
Assistant United States Attorneys

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For the Defendant: STEVE ZISSOU & ASSOCIATES  
Attorneys for the Defendant -  
Bryant Neal Vinus  
42-40 Bell Boulevard  
Suite 302  
Bayside, New York 11361  
BY: STEVE ZISSOU, ESQ.  
KARLA COMMISSO, ESQ.

A P P E A R A N C E S: (Continued.)

MICHAEL K. BACHRACH, ESQ.  
Attorneys for the Defendant -  
Bryant Neal Vinus  
276 Fifth Avenue  
Suite 501  
New York, New York 10001  
BY: MICHAEL K. BACHRACH, ESQ.

A L S O P R E S E N T:

S.A. Ed Pannetta

S.A. Farbad Azad

S.A. Erika Day

Court Reporter: Anthony D. Frisolone, FAPR, RDR, CRR, CRI  
Official Court Reporter  
Telephone: (718) 613-2487  
Facsimile: (718) 613-2694  
E-mail: Anthony\_Frisolone@nyed.uscourts.gov

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1 (In open court.)

2 (Defendant present in open court.)

3 COURTROOM DEPUTY: All rise. The United States  
4 District Court for the Eastern District of New York is now in  
5 session. The Honorable Nicholas G. Garaufis is now presiding.

6 (Honorable Nicholas G. Garaufis takes the bench.)

7 COURTROOM DEPUTY: Calling criminal cause for  
8 sentencing in Docket No. 08-CR-0823, *United States of America*  
9 *against Bryant Neal Vinas*.

10 Counsel, please note your appearances for the  
11 record.

12 MR. TUCKER: For the United States of America,  
13 Assistant United States Attorney Richard Tucker and David  
14 Kessler.

15 Good afternoon, your Honor.

16 MR. ZISSOU: Steve Zissou, Michael Bachrach, and  
17 Carla Commisso for Bryant Neal Vinas.

18 Good afternoon, your Honor.

19 THE COURT: You may be seated in the galleries.

20 United States v. Versus Bryant Vinas. Appearances  
21 please.

22 MR. TUCKER: Rich Tucker and David Kessler. Sitting  
23 at counsel table with me at Ed Pannetta, Farbad Azad and Erica  
24 Day.

25 Mr. Vinas is entering the courtroom with the

1 Marshals Service.

2 (Defendant enters the courtroom at 2:20 p.m.)

3 MR. ZISSOU: Steve Zissou, Michael Bachrach, and my  
4 associate Carla Commisso who has been working with us.

5 THE COURT: Please be seated everyone. The  
6 defendant is present. All right.

7 This is a sentencing for Bryant Neal Vinas.

8 Mr. Vinas, are you satisfied with the assistance  
9 that your attorneys have given you thus far in this matter?

10 THE DEFENDANT: Was a little shaky, but it's good  
11 right now, sir. It's good, sir.

12 THE COURT: It's okay.

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Is there any reason why we should not  
15 ^ proceeded to ^ proceed today?

16 THE DEFENDANT: No, sir.

17 THE COURT: Okay. Thank you. All right.

18 Mr. Tucker.

19 MR. TUCKER: Yes, your Honor.

20 THE COURT: Are there any victims present who wish  
21 to speak before I proceed with the rest of the sentencing  
22 proceeding?

23 MR. TUCKER: Not to my knowledge, your Honor.

24 THE COURT: Okay. Thank you.

25 Is there any victim who is present who would like to

1 say anything?

2 Okay. Thank you.

3 The first order of business is to identify for the  
4 record the items in Mr. Vinas's sentencing file?

5 There is a presentence investigation report prepared  
6 on October 14, 2016. There are the defendant's military  
7 records, which I've also reviewed. There's a February 3,  
8 2017, letter from the Government and accompanying exhibits. I  
9 think there are 65 of them under seal. An ex parte letter  
10 from the Government dated February 3, 2017, under seal.  
11 Classified letter from the Government dated February 3, 2017.  
12 There are redactions and a copy that's been provided to  
13 defense counsel. The letter is not on the public docket.  
14 There's a March 23, 2017, letter from defense counsel to the  
15 Government responding to the Government's letter dated  
16 February 3, 2017, which is not on the public docket and  
17 presumptively classified. There's a classified letter dated  
18 April 3, 2017, from the Government to defense counsel  
19 responding to defense counsel's letter dated March 23, 2017,  
20 the letter is not on the public docket. There is an April 20,  
21 2017, letter from defense counsel outlining the relevant  
22 issues for a classified status conference. There's  
23 defendant's sentencing memorandum dated May 5, 2017, that is  
24 sealed and I'm requesting that the defense provide a redacted  
25 copy which will be placed on the public docket.

1 Have I missed anything?

2 MR. TUCKER: No, your Honor.

3 MR. ZISSOU: No, your Honor.

4 THE COURT: Okay. Thank you.

5 Now, on January 28, 2009, pursuant to a cooperation  
6 agreement, the defendant waived indictment and entered a  
7 guilty plea to a three-count superseding information that  
8 charged him with Count One, conspiracy to murder  
9 U.S. nationals in violation of 18, United States Code,  
10 Section 2332(b).

11 In Count Two, providing material support to a  
12 foreign terrorist organization in violation of 18, United  
13 States Code, Section 2339(b)(a) (1).

14 And in Count Three, receiving military type training  
15 from a foreign terrorist organization in violation of 18,  
16 United States Code, Section 2339(d)(a).

17 The statutory maximum term of imprisonment for Count  
18 Two is life in prison. For Count Two two, the statutory  
19 maximum is 15 years in prison. And for Count Three, the  
20 statutory maximum is ten years in prison.

21 The maximum term of supervised release for each  
22 count is life. Pursuant to 18, United States Code,  
23 Section 3583(j), and that's pursuant to that section.

24 The offenses that qualify as terrorism predicate are  
25 listed in 18, United States Code, Section 2332(b)(g)(5(b)).

1 These qualifying offenses include the crimes to which  
2 Mr. Vinas has entered a guilty plea.

3 The presentence report properly lists the maximum  
4 term of supervised release as life, but I note, however, that  
5 Mr. Vinas's cooperation agreement is incorrect as to the  
6 maximum term of supervision.

7 Do the parties have any objection to the Court's  
8 conclusion that the maximum term of supervision is life?

9 MR. TUCKER: No, your Honor.

10 MR. ZISSOU: No, your Honor.

11 THE COURT: Okay. The maximum fine allowable is  
12 \$250,000 on each count. A special assessment of \$300 that is  
13 \$100 on each count is mandatory. At this time, we should go  
14 over the computation of the defendant's guideline range.

15 The defendant's base offense level is a 33.  
16 Defendant's offense is a felony that involved, or was intended  
17 to promote, a federal crime of terrorism. Therefore, the  
18 defendant's base offense level is increased by 12 levels  
19 pursuant to Section 3A1.4A. Guidelines. This makes  
20 defendant's adjusted offense level a 45.

21 The Court finds that the defendant is eligible for a  
22 three-level reduction for acceptance of responsibility under  
23 Section 3A1.1 of the guidelines because defendant entered a  
24 prompt guilty plea accepting responsibility. Defendant's  
25 Total Offense Level is, therefore, a 42.

1 Does everyone agree with the computation of the  
2 offense level?

3 MR. TUCKER: Yes, your Honor.

4 MR. ZISSOU: We do, your Honor.

5 THE COURT: Thank you.

6 The defendant has no prior criminal convictions, but  
7 because the instant offense involved was intended to promote a  
8 federal crime of terrorism defendant is automatically placed  
9 in Criminal History Category VI as pursuant Section 3A1.4 of  
10 the guidelines.

11 Defendant's guidelines imprisonment range is  
12 therefore 360 months to life. Does everyone agree with the  
13 computation the Court has just made and which is included in  
14 the presentence report.

15 MR. TUCKER: Yes, your Honor.

16 MR. ZISSOU: Yes, your Honor.

17 THE COURT: The Court finds that that is the correct  
18 computation of the guideline range which is 360 months to  
19 life.

20 Are there any objections to the presentence report  
21 in general?

22 MR. TUCKER: No, your Honor.

23 MR. ZISSOU: No, your Honor.

24 THE COURT: Okay. The parties, having no objection,  
25 I adopt the PSR including the guidelines calculation.



1           The next step is to discuss the defendant's  
2 substantial assistance.

3           The Government has made a motion pursuant to  
4 Section 5K1.1 of the guidelines to allow the court in its  
5 discretion to depart if deadlines and impose a lower sentence  
6 based on the stance assistance. Defendant has provided to  
7 both the U.S. and foreign authorities.

8           I have read the Government's 5K1 and defendant's  
9 sentencing submission, but I would like to make a record here.  
10 I would like to hear from the parties on whether, and to what  
11 extent, a departure from the guidelines range is appropriate  
12 based on defendant's substantial assistance.

13           The parties may also address the relevant factors  
14 under 18, United States Code, section §3553(a) in order to  
15 impose a sentence that is sufficient, but not greater than  
16 that necessary, to fulfill the purposes of sentencing.

17           Mr. Tucker.

18           MR. TUCKER: Thank you, your Honor.

19           So, your Honor, I note that --

20           THE COURT: Why don't you come up here and speak at  
21 the microphone. Thank you.

22           MR. TUCKER: I know the Court has carefully studied  
23 the Government's submissions in this matter, and I want to  
24 make clear that those submissions sets forth the Government's  
25 position with respect to sentencing, but what I hope to do

1 today is to assist the Court and the parties in best  
2 understanding the Government's views on this very difficult  
3 and important case.

4 As your Honor noted a moment ago this sentencing,  
5 like all sentencings, is governed by Section 3553. We  
6 discussed all those factors in our papers, but one factor that  
7 weighs particularly heavily here are the nature and  
8 circumstances and seriousness of Mr. Vinas's conduct.

9 The defendant left Long Island with a desire to  
10 travel overseas and to fight and kill American service  
11 personnel. Once in Pakistan and Afghanistan, he relentlessly  
12 sought out and successfully joined al-Qaeda on whose behalf he  
13 launched rocket attacks and participated in attempted rocket  
14 attacks on U.S. personnel and plotted terrorist attacks on the  
15 homeland.

16 But for the defendant's cooperation here and the  
17 Government's 5K1.1 motion, the defendant would face a  
18 mandatory minimum of ten years, and a guidelines range of  
19 360 months to life. But the defendant did cooperate, and as  
20 we've set forth in his submission his cooperation and his  
21 assistance was very substantial.

22 Now, there have been multiple characterizations of  
23 the import of the defendant's cooperation. I would  
24 respectfully direct the Court's attention to the Government's  
25 characterizations of that substantial assistance because the

1 Government is in best position to guide the Court in assessing  
2 the value and impact of what the defendant has done.

3 And as we said in our papers, Judge, Mr. Vinas may  
4 have been the single most valuable cooperating witness  
5 available to the Government and law enforcement with respect  
6 to al-Qaeda for the period that he was in Afghanistan and  
7 Pakistan which is remarkable.

8 He has been interviewed more than 100 times. He's  
9 been shown more than 1,000 photographs. He has provided  
10 unparalleled insight into external and internal operations of  
11 al-Qaeda during the time before his arrest. This information  
12 has been valuable to the U.S. Government and to our foreign  
13 partners.

14 In addition, Judge, Mr. Vinas has contributed to the  
15 opening and closing of more than 30 criminal investigations,  
16 and among these was the successful prosecution of Adis  
17 Medujanin in this courthouse where he was convicted of  
18 conspiring to launch coordinated attacks against the New York  
19 City subway system on behalf of al-Qaeda.

20 And as your Honor knows, Mr. Vinas testified during  
21 that trial, and that testimony provided critical context and  
22 background about al-Qaeda including how Westerners could go  
23 about joining that terrorist organization.

24 Put simply, Judge, Mr. Vinas's assistance was  
25 extremely substantial. And it may support a term of

1 incarceration that, although significant, falls below the  
2 guidelines range of 360 months to life.

3 And so, your Honor, to address the Court's question,  
4 I come to what I think is among the most challenging and  
5 important factors here which is assessing the defendant's  
6 future dangerousness. Because as we think about the framework  
7 that the Court has to operate under here, that's certainly a  
8 critical factor in thinking forward about what's necessary,  
9 but not greater than necessary, to protect the public.

10 The defendant has been in jail for more than eight  
11 years and his path forward, at least to the Government, is  
12 unclear. And as time has passed, as we noted in our letter,  
13 he has become increasingly withdrawn and uncommunicative with  
14 the Government. And that's of great concern, frankly, your  
15 Honor, and I'm sure it is to the Court as well.

16 As a result of this, the Government has very little  
17 information about whether the defendant is likely to pose a  
18 continuing danger. The Government's hope for Mr. Vinas is  
19 that whenever he's released from prison, he will choose to  
20 lead a law-abiding life. And to that end, we've requested  
21 that your Honor impose a substantial term of supervised  
22 release at the conclusion of whatever prison sentence your  
23 Honor orders as well as conditions including mental health  
24 treatment and continuing education and vocational treatment.

25 And, your Honor, I just want to say the Government

1 and the FBI agents who are here today before your Honor who  
2 have worked with Mr. Vinas since the outset have pledged to  
3 him and committed to continue to work with him and support him  
4 so that hopefully he can find the right path going forward.

5 And if your Honor has questions, I'm happy to  
6 address any specific issues that the Court may have but with  
7 that the Government would rest on its papers.

8 THE COURT: Mr. Zissou.

9 MR. ZISSOU: I think we addressed a number of these  
10 things at our last proceeding. And so, to the extent I will  
11 repeat them I will try to be brief about it and I certainly  
12 have no intention of going on for too long.

13 Mr. Tucker is right. Mr. Vinas, who was 24 years  
14 old, left the United States, left his homeland. Left his  
15 country. Went to Lahore and other areas of the world not  
16 friendly to the United States.

17 And he is correct, he relentlessly tried to join an  
18 organization that sought to destroy our way of life. And when  
19 he was caught, he relentlessly tried to undo the damage that  
20 he had wrought.

21 He's relentlessly cooperated with the United States.  
22 He's relentlessly cooperated with the Government. And a young  
23 man who al-Qaeda thought would prove to be an aid, a  
24 supporter, somebody who helped them destroy our way of life  
25 instead became an instrument perhaps even the instrument of

1 their destruction.

2 There is no question about that anymore.

3 He came forward and showed the same relentlessness  
4 that he did in supporting his country. He came back to the  
5 U.S. He demonstrated in doing so that whatever thoughts were  
6 running around in his head. Whatever heart he felt at the  
7 time, his heart was American. And that the blood that coursed  
8 through his veins, that pulsed through his heart was red,  
9 white, and blue. And he's done that are for the better part  
10 of ten years.

11 Now, the Government is certainly in the best  
12 position to know, obviously, we've said. But in large part  
13 that's because in large part a lot of the really important  
14 information is still classified. Your Honor has some of it,  
15 but they control the source of information. But what we have  
16 seen alone makes it clear that without this young man, this  
17 country would have faced even greater threats over the last  
18 ten years since he has been cooperating.

19 Mr. Tucker mentioned this in his 5K letter about  
20 concerns about future dangerousness, of course, that's on the  
21 Court's mind and I'm sure the Court will fashion a sentence  
22 that addresses that with concerns about supervised release and  
23 conditions of supervised release. You can certainly impose  
24 conditions that will satisfy any concern that your Honor might  
25 have.

1 But let's think a little bit about how he comes here  
2 today. How he becomes less willing, less cooperative with the  
3 United States Attorney's Office over the years.

4 It's almost ten years in a secure facility. Ten  
5 years of not maturing. Ten years of understanding that the  
6 case would be over next year, next year, next year. And year  
7 after year that just didn't happen until your Honor decided it  
8 was time to move this case along. And if your Honor recalls  
9 at the time that your Honor made that decision. Another  
10 assistant stood in Mr. Tucker's position and tried to continue  
11 this case even longer.

12 Instead, Mr. Tucker stepped in and he did a yeoman's  
13 job. He stepped up and he looked Mr. Vinas in the eye and he  
14 tried to be straight with him. And he said to him, look, we  
15 still need you but if you want to go forward with your  
16 sentence we will. And Mr. Vinas said, okay, I'm ready to go  
17 forward with the sentence. And he said, as he will continue  
18 to say here today, whenever and wherever they need me, if the  
19 Court determines that I should be released some time soon, I  
20 will continue to assist. I will continue to relentlessly  
21 assist the United States Attorney in this case.

22 But, please, can we get this over? Can I stop being  
23 in this facility where I'm known to simply by my initials.  
24 Where I see very little other humans except my lawyers or  
25 other people who are in prison because I have a chance to

1 breathe free air again. Can I sleep on a mattress that  
2 doesn't make my back hurt? Can I enjoy some of the fruits of  
3 my labors? Can I become American again? Can I live again the  
4 American dream.

5 And I think, Judge, he's ready to do that. He wants  
6 a simple, quiet existence. He wants simply to disappear in  
7 unanimity with whatever security conditions can be arranged,  
8 and I think it appropriate for your Honor to give him a  
9 sentence of time served plus 90 days for those security  
10 reasons. And I would simply ask you to hear from him now and  
11 we're prepared to answer any questions the Court may have.

12 THE COURT: Anything else from you, Mr. Tucker?

13 MR. TUCKER: No, your Honor.

14 THE COURT: All right. Mr. Vinas, why don't you  
15 step up with counsel.

16 Mr. Vinas, I didn't receive a letter or submission  
17 from you, and so, what I'd like you to do is make any  
18 statement that you wish to make now if you're reading a  
19 statement, please read it slowly.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. Go ahead, sir.

22 THE DEFENDANT: First of all, I'd like to express my  
23 deepest apologies to the Court for my actions. I understand  
24 that there is no excuse that would justify what I did. I  
25 accept full responsibility. I blame no one but myself.



1           To say that I'm remorseful would be an  
2 understatement. These eight and a half years of incarceration  
3 have allowed me to reflect on my mistakes and to continue make  
4 amends for those mistakes.

5           I would like to turn a bad thing into a good thing.  
6 I had the idea of being a counterterrorism analyst years ago.  
7 I tried to write to a counterterrorism contractor, but the  
8 prison prevented me from making contact with the company due  
9 to their rules. I would be a valuable asset to any  
10 counterterrorism team. I'm not sure how that would work, but  
11 I would see if something could be worked out.

12           One of the first things I have to take care of is  
13 getting surgery on my back. I've been dealing with back pain  
14 for many years. I know that surgical procedures today are  
15 more advanced than when I first hurt my back. I hope to fully  
16 recover. If I am unable to go into the counterterrorism  
17 field, I would go into some type of construction trade to earn  
18 a blue collar living.

19           THE COURT: Thank you.

20           The Court is required to impose a sentence that is  
21 sufficient, but not greater than necessary, to fulfill the  
22 purposes of sentencing pursuant to Title 18, United States  
23 Code, section §3553(a).

24           Having heard from the parties and from the  
25 defendant, I will now address the sentencing factors that are

1 relevant to this defendant under section §3553(a) as well as  
2 the substantial assistance Mr. Vinas provided to the  
3 authorities.

4 First, the nature and circumstances of the offense  
5 and the history and characteristics of the defendant.

6 The defendant has committed crimes of the most  
7 serious nature. At his plea proceeding, he admitted in his  
8 own words that in 2007 he traveled to Pakistan with the  
9 intention of meeting and joining a jihadist group to fight  
10 American soldiers in Afghanistan. He was accepted into  
11 al-Qaeda and received general combat and explosives training  
12 from the terrorist organization.

13 As a member of al-Qaeda, the defendant admits that  
14 he participated in two rocket attacks against U.S. military  
15 bases. He also admits that he provided al-Qaeda leadership  
16 with detailed information about the operation of the Long  
17 Island Railroad for the purpose of assisting and planning an  
18 attack against the Long Island Railroad system.

19 It is clear that at one point in time, Mr. Vinas  
20 posed a grave threat to the members of the United States  
21 military and this country's national security and public  
22 safety of its citizens. It is also true, however, that once  
23 Mr. Vinas was arrested in Pakistan and transferred to  
24 U.S. custody, he immediately commenced cooperating with  
25 U.S. authorities.

1           In fact, the Government states in its 5K1.1 letter  
2     that Mr. Vinas's assistance, "Could not have been more  
3     timely," and his cooperation began, "Within days of his arrest  
4     in Pakistan," and has, "Continued through the present." A  
5     span of more than eight years.

6           The Government's 5K1.1 letter provides detailed  
7     information about Mr. Vinas's assistance. While I will not  
8     repeat each instance of cooperation, I will read an excerpt  
9     from the Government's letter that appropriately captures the  
10    scope and magnitude of Mr. Vinas's cooperation and will  
11    provide some highlights of what Mr. Vinas has accomplished as  
12    a cooperator.

13           The Government writes:

14           "To say that the defendant provided substantial  
15    assistance to the Government is an understatement. Indeed, he  
16    may have been the single most valuable cooperating witness  
17    available to the Government and law enforcement agencies with  
18    respect to al-Qaeda and associated topics related to the time  
19    period in which Mr. Vinas traveled to, and was operational, in  
20    Afghanistan and Pakistan between 2007 and 2008.

21           During more than eight years of cooperation, Vinas  
22    participated in approximately 100 interviews, reviewed  
23    approximately 1,000 photographs, and contributed to the  
24    opening or closing of more than 30 law enforcement  
25    investigations."

1           The Court emphasizes a number of points regarding  
2 Mr. Vinas's cooperation.

3           First, the Court notes the cost to Mr. Vinas of his  
4 cooperation. It is quite clear that Mr. Vinas has put himself  
5 in grave danger in order to provide assistance to the  
6 United States and its allies in the ongoing struggle against  
7 terrorism. Terrorist organizations like al-Qaeda have openly  
8 proclaimed that they will target individuals who cooperate  
9 against them. Mr. Vinas will continue to bear this risk for  
10 the rest of his life.

11           Second, the information Mr. Vinas has provided has  
12 clearly been of extraordinary value. The Government reports  
13 that the information has been truthful, complete, and accurate  
14 and was critical in identifying new leads and targets for  
15 investigation and supplementing and correcting the  
16 Government's understanding of al-Qaeda.

17           Mr. Vinas provided the FBI with critical information  
18 about domestic threats by al-Qaeda in one particularly  
19 noteworthy example Mr. Vinas alerted authorities about an  
20 al-Qaeda attack on the Long Island Railroad that he had helped  
21 plan.

22           Mr. Vinas has also helped the Government to  
23 prosecute numerous individuals including Adis Medujanin who  
24 was charged with conspiring and attempting to conduct  
25 coordinated suicide bombings in the New York City subway

1 system. By the Government's own account Vinas's trial  
2 testimony was critical to securing the defendant's conviction.

3 Moreover, the Government has detailed Mr. Vinas's  
4 substantial assistance in understanding al-Qaeda's operations,  
5 organization, recruitment, and training. Put simply,  
6 Mr. Vinas's cooperation has been extraordinary, and has  
7 greatly aided the U.S. and many foreign authorities.

8 The juxtaposition of Mr. Vinas's atrocious crimes  
9 and his remarkable post-arrest cooperation is what makes the  
10 task of sentencing Mr. Vinas so difficult. Defense counsel  
11 has aptly characterized Mr. Vinas as a complex individual.  
12 Fashioning his sentence mirrors his complexity.

13 With regard to deterrence and the protection of the  
14 public.

15 One of my concerns here is that the sentence I  
16 impose afford adequate deterrence to criminal conduct in the  
17 future. Not just by this defendant, but by others including  
18 other home grown terrorists.

19 I note that Mr. Vinas was born in Queens and grew up  
20 on Long Island.

21 No one, that is no one, even Mr. Vinas himself be  
22 has a crystal ball and can know for certain whether Mr. Vinas  
23 will re-offend. However, he is in control of his destiny.

24 That being said, the Government reports in its 5K1.1  
25 letter that at no forked after his arrest in 2008 has

1 Mr. Vinas acted violently or expressed an interest or  
2 intention to commit a violent act or otherwise support a  
3 foreign terrorist organization.

4 Based on this representation and Mr. Vinas's more  
5 than eight years of consistent and reliable cooperation, I am  
6 cautiously optimistic that Mr. Vinas has learned the error of  
7 his ways and will never again commit another crime of this  
8 nature.

9 Mr. Vinas, the Government gave you an opportunity to  
10 make up at least in part for your wrongdoing you have made the  
11 most of that opportunity and I implore you to continue to do  
12 so. The parties point out that Mr. Vinas has served the  
13 equivalent of a ten-year sentence taking into account a  
14 15 percent reduction for good behavior.

15 Now, deterrence can be a double-edged sword and the  
16 Court is mindful that just as sentencing should be designed to  
17 deter criminal behavior, it should also avoid deterring  
18 cooperation. Again, the Court considers not only this  
19 defendant, but also others who would contemplate cooperating  
20 in terrorism cases.

21 The value of Mr. Vinas's cooperation is clear and  
22 the Court's sentencing consideration would be incomplete if  
23 they did not take into account the risk of discouraging future  
24 cooperators through imposition of a sentence that does not  
25 fairly reflect Mr. Vinas's contributions.

1           Finally, I have considered Mr. Vinas's need for  
2 educational training, medical care, and corrective treatment.  
3 Mr. Vinas has been living largely in a solitary confinement  
4 situation. Since being arrested in 2008. He has not had  
5 access to the educational or vocational training that he needs  
6 to secure gainful employment in the future. Defense counsel  
7 also reports that Mr. Vinas needs back surgery. Mr. Vinas  
8 could also benefit from mental health counseling which has not  
9 been available to him.

10           Mr. Vinas, do you have anything else to say?

11           THE DEFENDANT: No, sir.

12           THE COURT: Anything from counsel?

13           MR. TUCKER: No, your Honor.

14           MR. ZISSOU: No, your Honor.

15           THE COURT: Okay. Are you ready to be sentenced?

16           THE DEFENDANT: Yes, sir.

17           THE COURT: Based on the foregoing, and the  
18 following specific reasons, I'm going to grant a downward  
19 variance from the guidelines range.

20           I sentence you as follows:

21           In light of your substantial assistance and the  
22 factors outlined in section §3553(a), the Court finds that the  
23 following sentence is sufficient, but not greater than that  
24 necessary to serve the purposes of sentencing. I, therefore,  
25 impose a sentence of time served plus 90 days. I am, however,

1 imposing a term of lifetime supervision.

2 Your supervised release term is subject to the  
3 following special conditions.

4 You shall not associate in person, through mail,  
5 electronic mail, Internet, social networking, or telephone  
6 with any individual with an affiliation to any terrorist  
7 organization, organized crime groups, gangs, or any criminal  
8 enterprise or terrorist enterprise. Nor, shall you frequent  
9 any establishment or other locale where these groups may meet  
10 pursuant, but not limited to, a prohibition list that the  
11 probation department will provide.

12 You shall participate in a mental health treatment  
13 program as approved by the probation department.

14 You shall contribute to the cost of such services  
15 rendered and any psychotropic medications prescribed to the  
16 degree you are reasonably able, and shall cooperate in  
17 securing any applicable any third-party payment.

18 You shall disclose all financial information and  
19 documents to probation to assess your ability to pay.

20 You shall maintain full-time, verifiable employment  
21 and shall participate in an educational or vocational training  
22 program as approved by the probation department.

23 You shall not possess any firearm, ammunition, or  
24 destructive device.

25 You shall submit your person, property, house,



1 residence, vehicle, papers, computers other electronic  
2 communications or data storage devices or media or office to a  
3 search conducted by the U.S. probation officer. Failure to  
4 submit to a search may be ground for revocation of release.

5           You shall warn any other occupants that the premises  
6 may be subject to search pursuant to this condition.

7           An officer may conduct a search pursuant to this  
8 condition only when reasonable suspicion exists that you  
9 visited a condition of your supervised release that the area  
10 is to be searched contain evidence of this violation.

11           Any search must be conducted at a reasonable time  
12 and in a reasonable manner. You shall continue to cooperate  
13 with the Government including, but not limited to, providing  
14 information and evidence to law enforcement officers and  
15 prosecutors and testifying as needed before grand juries and  
16 trials.

17           I decline to impose a fine as you appear to lack the  
18 resources to pay a fine.

19           You are, however, required to pay a \$300 special  
20 assessment which is mandatory.

21           Now, should you comply with the terms of your  
22 supervision for a significant length of time and exhibit  
23 exceptionally good behavior while on supervised release, you  
24 may have apply for an early termination of this term of  
25 supervised release at some point in the future on the

1 recommendation of the Government. There is no guarantee that  
2 the Court will grant such a motion, but it is something that  
3 you should keep in mind as an incentive to stay on the right  
4 track.

5           You have the right to appeal your sentence to the  
6 United States Court of Appeals for the Second Circuit if you  
7 believe the Court has not properly follow the law in  
8 sentencing you. Your time to appeal is extremely limited of  
9 the you should discuss with your attorneys immediately whether  
10 an appeal would be worthwhile.

11           Do you understand your right to appeal?

12           THE DEFENDANT: Yes, sir.

13           THE COURT: Okay. Is there anything else from the  
14 Government?

15           Is there an underlying indictment?

16           MR. TUCKER: Yes, your Honor. There is an  
17 underlying charge which the Government would move to dismiss  
18 at this time.

19           THE COURT: The underlying indictment is dismissed  
20 on motion of the Government.

21           Anything further from the Government for today?

22           MR. TUCKER: No, your Honor.

23           THE COURT: Anything else from the defense?

24           MR. ZISSOU: Judge, I just had a question about one  
25 of the special conditions just a technical matter under had

1 said insofar an application for early termination of  
2 supervised release, your Honor. I'm not sure you meant to  
3 say, but your Honor said than in effect the Government would  
4 have to recommend such a recommendation, recommend such a  
5 course of conduct. I don't believe the statute requires that.  
6 Is your Honor suggesting that what the Government's position  
7 will be would carry great weight with the Court?

8 THE COURT: Well, that's right. That an application  
9 could be paid made by counsel for the defendant on his behalf  
10 or pro se, but that I would require that the Government have  
11 the opportunity to make a recommendation.

12 MR. ZISSOU: Understood.

13 THE COURT: I would seriously consider the  
14 Government's recommendation because the Government's  
15 recommendation, and I would add the probation department's  
16 recommendation and law enforcement's recommendation, would  
17 play a very important role.

18 MR. ZISSOU: Yes, I understand.

19 THE COURT: It's not a but-for situation.

20 MR. ZISSOU: Understood.

21 THE COURT: All right.

22 MR. ZISSOU: Nothing else to add, your Honor.

23 THE COURT: Nothing else? All right.

24 Mr. Vinas.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Good luck.

2 THE DEFENDANT: Thank you very much, sir.

3 MR. BACHRACH: Thank you, your Honor.

4 THE COURT: We're adjourned.

5 MR. TUCKER: Thank you, your Honor.

6 (Defendant exits from courtroom at 2:57 p.m.)

7 (WHEREUPON, this matter was adjourned.)

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11 CERTIFICATE OF REPORTER

12

13 I certify that the foregoing is a correct transcript of the  
14 record of proceedings in the above-entitled matter.

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20 Anthony D. Frisolone, FAPR, RDR, CRR, CRI  
21 Official Court Reporter

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